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December 7, 2005

David Saliwanchik

David R. Saliwanchik, Patent Attorney

RESPONSE TO DECISION ON
PETITION UNDER 37 CFR 1.137(b)

Serial No. 09/266,346

Docket No. ARO-104 (32873-155) **RECEIVED**

DEC 14 2005

OFFICE OF PETITIONS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PP 13

Examiner : Irvin Dingle
Art Unit :
Applicant(s) : Jack L. Aronowitz, Joel R. Mitchen, John Weiss and Irwin Weitman
Serial No. : 09/266,346
Filing Date : March 11, 1999
For : Noninvasive Transdermal Systems for Detecting an Analyte in a Biological Fluid and Methods

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO DISMISSED PETITION UNDER 37 CFR 1.137 (b)

Sir:

The applicants filed a Petition to Revive Application on December 30, 2002 wherein the Petition was granted on February 10, 2003. The applicants received a Corrected Decision dated November 15, 2005 wherein the petition was dismissed because the declaration executed by Inventor Joel R. Mitchen did not include the other inventors.

Attached with this Response is a fully executed Declaration and Power of Attorney form executed by Inventor Mitchen, which sets forth the other named inventors.

In view of the foregoing, the applicants hereby pray that the subject patent application be revived as having been unintentionally abandoned.

Please note that the applicants authorized payment of all fees due in the original Petition filed December 30, 2002. Any additional fees as required by 37 C.F.R. §§ 1.16 or 1.17 should be charged to Deposit Account No. 19-0065.

Favorable consideration of this Petition is respectfully requested.

Respectfully submitted,



David R. Saliwanchik
Patent Attorney
Registration No. 31,794
Phone No.: 352-375-8100
Address : P.O. Box 142950
Gainesville, FL 32614-2950

DRS/la

Attachments: Executed Declaration and Power of Attorney form
Copy of Dismissed Petition



UNITED STATES PATENT AND TRADEMARK OFFICE

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SALIWANCHIK, LOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE, FL 32614-2950

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OFFICE OF PETITIONS

In re Application of
Jack L. Aronowitz et al
Application No. 09/266,346
Filed: March 11, 1999
Attorney Docket No.

NOV 19 2005

PA10-104

SSX

ON PETITION

CORRECTED DECISION

This is a decision on the petition under 37 CFR 1.137(b), filed December 30, 2002, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to Notice to file Missing parts of Application (Notice) mailed April 8, 1999. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 9, 1999.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

The declaration submitted with petition on December 30, 2002 lack compliance with § 1.63(b)(2). The executed declaration did not name all of the inventors. See MPEP 602, which states:

Where joint inventors execute separate oaths or declarations each oath or declaration should make reference to the fact that the affiant is a joint inventor together with other joint inventors indicating them by name.

Since the declaration executed by Inventor Joel R. Mitchen does not name the other joint inventors, the declaration is considered to be defective. In view thereof, Mr. Mitchen has not joined in the filing of the instant application. Accordingly, a substitute declaration executed by joint Inventor Mitchen and setting forth the other named inventors is required to be submitted within the time period specified above.

The decision mailed February 10, 2003 is hereby vacated as of the mail date of this decision.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.


Irvin Dingle
Petitions Examiner
Office of Petitions